

REMARKS

Claims 11-30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for a variety of specified reasons. Claims 11-13, 15, 16, 18, 19, 22-24, 26 and 27 were rejected under 35 USC 102(b) as being anticipated by Fourrey (6,291,809). Claim 14 was rejected under 35 USC 103(a) as being unpatentable over Fourrey in view of Diemer et al (20040036325). Claim 17 was rejected under 35 USC 103(a) as being unpatentable over Fourrey in view of Kochman et al (6,229,123). Claims 20 and 21 were rejected under 35 USC 103(a) as being unpatentable over Fourrey in view of Faust (5,934,748). Claim 25 was rejected under 35 USC 103(a) as being unpatentable over Fourrey alone. Claims 28-30 were deemed allowable if rewritten to overcome the 35 USC 112, second paragraph issues and to include all the limitations of the base and intervening claims.

Claims rejected under 35 USC 112, second paragraph

Claims 11-30 were rejected under 35 USC 112, second paragraph as being indefinite. The Examiner identified 1) appearing to positively claim the term passenger; 2) unclear as to what "the first of the cushion" refers to in claim 11; 3) unclear as to what "the function element" refers to in claim 14; and 4) the "or" recitation in claims 14 and 22.

1) The Applicant respectfully submits that the attached amendments properly and clearly rephrase the original directional limitations without appearing to positively claim the passenger that defines them. Reconsideration is requested.

2) Claim 11 has been amended such that it is clear that the "first SIDE of the cushion core" is being referred to.

3) Claim 14 has been amended such that it is clear as to the use of the term "functional elements" on par with its use in claim 13.

4) With regard to the "or" recitation in claims 14 and 22, the Applicant respectfully traverses this rejection and seeks reconsideration. In both claims it is clear precisely what the applicant is claiming: "pressure or temperature"; "cushion core or upper air distribution device". The applicant asserts that there exists no ambiguity in

these claims. The Applicant calls the Examiner's attention to MPEP 2173.05 wherein it is stated: Alternative expressions using "or" are acceptable, such as "wherein R is A, B, C, or D." The following phrases were each held to be acceptable and not in violation of 35 U.S.C. 112, second paragraph in *In re Gaubert*, 524 F.2d 1222, 187 USPQ 664 (CCPA 1975): "made entirely or in part of"; "at least one piece"; and "iron, steel or any other magnetic material." The Applicant, therefore, requests reconsideration.

Additional Claim Rejections

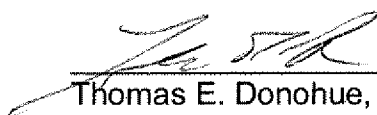
Claims 28-30 were deemed allowable if corrected for 35 USC 112, second paragraph issues and rewritten in independent form. As mentioned above, the Applicant has respectfully addressed all of the 35 USC 112 issues. The Applicant has further amended the claims such that the allowable claim 28 limitations were amended into its base claim 11. The allowable claim 29 limitations were amended into claim 12, its base claim, along with the limitations of the original claim 11 upon which claim 12 depended. Claim 30, which originally depended on claim 29, was amended to depend on new claim 12. In this fashion, allowable claim 28 has become claim 11 effectively, allowable claim 29 has become claim 12 effectively, and claim 30 now depends on allowable claim 12.

The Applicant asserts that all the remaining claims are in proper condition for allowance. The Applicant thanks the Examiner for the recognition of the allowable material.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 433-7221 if any unresolved matters remain. The Commissioner is also authorized to charge any additional fees or credit any overpayment to Deposit Account No. 04-1061, in the name of Dickinson Wright PLLC.

Respectfully submitted,

DICKINSON WRIGHT PLLC



Thomas E. Donohue, Reg. No. 44,660
38525 Woodward Avenue, Suite 2000
Bloomfield Hills, MI 48304-5092
(248) 433-7221 (Direct)
(248) 433-7274 (Fax)

Dated: September 11, 2008
BLOOMFIELD 36243-30 941823v1